

2009 DRAFTING REQUEST

Bill

Received: **03/11/2009**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Pam Shannon & Dick Sweet**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters: **rnelson2**

Subject: **Military Affairs - emerg govt**

Extra Copies:

Submit via email: **YES**

Requester's email: **Pam.Shannon@legis.wisconsin.gov**

Carbon copy (CC:) to: **richard.sweet@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Successors for legislators and meetings of the legislature

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	rryan 03/19/2009	csicilia 03/20/2009	mduchek 03/20/2009	_____	mbarman 03/20/2009		
/1	rryan 04/21/2009	csicilia 04/22/2009	rschluet 04/23/2009	_____	sbasford 04/23/2009	cduerst 05/21/2009	
				_____	cduerst 05/20/2009		
				_____	mbarman 05/20/2009		

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e-mail only

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FE Sent For:

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<END>

23

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Pl gs 3/20
09

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PR
3/20
<END>

FE Sent For:

Ryan, Robin

From: Sweet, Richard
Sent: Monday, November 17, 2008 11:03 AM
To: Nelson, Robert P.
Cc: Shannon, Pam; Ryan, Robin

Attachments: 0163_1.pdf; 0123_1.pdf

Bob,

Here are 2 drafts to fold into the larger ch. 166 draft after tomorrow's meeting.



0163_1.pdf (14 KB) 0123_1.pdf (16 KB)

The first is WLC:0123/1. The only change the Committee made was to delete the sentence on page 2, line 10.

The second is WLC:0163/1. The changes here are to insert "(a)" on page 1, line 7, after the period. Then the following would be inserted on page 2, after line 5:

"(b) Pursuant to the session schedule under s. 13.02(3), the legislature may meet for up to one week per session in a location that is not the state capitol or the location under sub. (1) or par. (a) in order to practice meeting at an alternate temporary location.

(c) All actions taken by the legislature at a location under sub. (1) or pars. (a) or (b) shall be considered to have occurred at the seat of government and all actions taken during such a meeting shall have the same legal effect as if the members were physically present at the seat of government."

(Feel free to change "during such a meeting" in the previous paragraph to "at that location" in order to get rid of the "such".)

The other draft I worked on is a joint resolution that amends the Constitution, so it won't be folded in. Pam will get you an amended version of her draft on virtual meetings.

Thanks.

Dick Sweet

Senior Staff Attorney
Wisconsin Legislative Council
(608)266-2982

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(c) All actions taken by the legislature at a location under sub. (1) or pars. (a) or (b) shall be considered to have occurred at the seat of government and all actions taken during such a meeting shall have the same legal effect as if the members were physically present at the seat of government."

(Feel free to change "during such a meeting" in the previous paragraph to "at that location" in order to get rid of the "such".)

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Thanks.

Dick Sweet

Senior Staff Attorney
Wisconsin Legislative Council
(608)266-2982

RNS:wu;ty

11/05/2008

1 **AN ACT** *to renumber and amend* 166.08 (2) (b); and *to create* 166.08 (2) (b) 2. and
2 166.08 (4m) of the statutes; **relating to:** emergency interim successors for
3 legislators.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on emergency management and continuity of government.

Current law provides a mechanism for appointment of emergency interim successors for the governor and a variety of state and local officers. However, current law does not provide a mechanism for appointment of emergency interim successors for legislators.

The bill provides that a legislator, as soon as practicable after the legislature convenes every 2 years, must file with the chief clerk for the legislator's house a list of not less than 3 nor more than 7 emergency interim successors. If there are more than 9 vacancies in the Senate, or more than 25 vacancies in the Assembly, interim successors named in the list are to be appointed by the presiding officer or his or her designee in the house in which the threshold has been met to fill the vacancies. An interim emergency successor is required to exercise the powers and discharge the duties of the office until the vacancy is filled through an election. All votes taken by emergency interim successors are as valid as if taken by a legislator.

4 **SECTION 1.** 166.08 (2) (b) of the statutes is renumbered 166.08 (2) (b) 1. and amended
5 to read:

6 166.08 (2) (b) 1. "Emergency Except as provided in subd. 2., "emergency interim
7 successor" means a person designated under this section, if the officer is unavailable, to
8 exercise the powers and discharge the duties of an office until a successor is appointed or
9 elected and qualified as provided by law or until the lawful incumbent is able to resume the
10 exercise of the powers and discharge the duties of the office.

1 **SECTION 2.** 166.08 (2) (b) 2. of the statutes is created to read:

2 166.08 (2) (b) 2. "Emergency interim successor" for a legislator means a person
3 designated under sub. (4m) to exercise the powers and discharge the duties of the legislator
4 as provided in sub. (4m) until a successor is elected as provided in s. 17.19 (1).

5 **SECTION 3.** 166.08 (4m) of the statutes is created to read:

6 166.08 (4m) EMERGENCY INTERIM SUCCESSORS FOR LEGISLATORS. (a) A legislator, as
7 soon as practicable after the legislature convenes under s. 13.02 (1), shall file with the chief
8 clerk for the legislator's house a list of not less than 3 nor more than 7 emergency interim
9 successors for the legislator. The legislator may update the list as often as the legislator wishes.
10 The chief clerk shall file with the secretary of state all lists and revisions to the lists. A list
11 under this subsection is not subject to inspection or copying under s. 19.35 (1).

12 (b) If there are more than 9 vacancies in the senate, interim successors named under par.
13 (a) shall be appointed by the presiding officer or his or her designee to fill the vacancies.
14 Interim successors shall be appointed in the order named in the list, except that persons who
15 are unwilling, unable, or not qualified to serve may not be appointed.

16 (c) If there are more than 25 vacancies in the assembly, interim successors named under
17 par. (a) shall be appointed by the presiding officer or his or her designee to fill the vacancies.
18 Interim successors shall be appointed in the order named in the list, except that persons who
19 are unwilling, unable, or not qualified to serve may not be appointed.

20 (d) If a chief clerk is unavailable, powers and duties of the chief clerk under this section
21 become powers and duties of his or her deputy.

22 (e) An emergency interim successor taking office under this subsection shall exercise
23 the powers and discharge the duties of the office until the vacancy is filled pursuant to s. 17.19

1 (1). All votes taken by an emergency interim successor shall be as valid as if taken by a
2 legislator.

3 (f) For purposes of this subsection, vacancies shall be determined under s. 17.03.

4 (g) The chief clerk of each house shall notify the secretary of state of all vacancies that
5 are filled by interim emergency successors under this subsection.

6 (END)

- 1 **AN ACT** *to amend* 166.05 (1) (title); and *to create* 166.05 (1m) of the statutes;
2 **relating to:** the emergency seat of government.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on emergency management and continuity of government.

Under current law, whenever during a state of emergency it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the state capitol, the governor is required to designate an emergency temporary location for the seat of government and to take such action and issue such orders as are necessary for an orderly transition of the affairs of state government to that location. While the seat of government remains at a temporary location, all official acts required by law to be performed at the seat of government are as valid and binding when performed at the temporary location as if performed at the normal location.

This bill allows the legislature, by joint rule, to provide a process for designating an emergency temporary seat of government for the legislature that is different than the location designated by the governor. Under the bill, whenever during a state of emergency it becomes imprudent, inexpedient, or impossible to conduct the business of the legislature at the state capitol, the legislature may meet either at the location designated by the governor or the location designated by the legislature itself. Information about this location is not subject to inspection or copying under the open records law.

- 3 **SECTION 1.** 166.05 (1) (title) of the statutes is amended to read:
4 166.05 (1) (title) DESIGNATION OF EMERGENCY TEMPORARY LOCATION BY THE GOVERNOR.
5 **SECTION 2.** 166.05 (1m) of the statutes is created to read:
6 166.05 (1m) DESIGNATION OF ALTERNATIVE EMERGENCY TEMPORARY LOCATION BY THE
7 LEGISLATURE. The legislature, by joint rule, may provide a process for designating an
8 emergency temporary seat of government for the legislature that is different than the location

1 under sub. (1). Whenever, during a state of emergency it becomes imprudent, inexpedient,
2 or impossible to conduct the business of the legislature at the state capitol, the legislature may
3 meet at the location under sub. (1) or the location designated under this subsection.
4 Information about the location under this subsection is not subject to inspection or copying
5 under s. 19.35 (1).

6 (END)

Ryan, Robin

From: Shannon, Pam
Sent: Monday, November 17, 2008 12:54 PM
To: Nelson, Robert P.
Cc: Sweet, Richard; Ryan, Robin
Subject: 0223_1[1].pdf - Linked File.pdf

Attachments: 0223_1[1].pdf

Hi Bob,

Here is the other COOP draft to fold in to the larger ch. 166 draft after tomorrow's meeting.



0223_1[1].pdf (13 KB)

It needs the following changes:

1. On page 2, line 17, replace the language currently in par. (d) with the following:

"(d) Within technological limits, a member of the public may monitor the proceedings of the house or committee."

2. On page 2, line 22, renumber sub. (8) to be sub. (9). Just before line 22, insert a new sub. (8) to read:

"(8) Pursuant to the session schedule under s. 13.02 (3), the legislature may meet for up to one week per session by holding a virtual meeting under s. 13.42, in order to practice meeting in a virtual manner."

Thanks, Bob.

See you tomorrow.

Pam

PS:ty

11/05/2008

- 1 **AN ACT** *to create* 13.42 of the statutes; **relating to:** virtual meetings of the legislature
2 and legislative committees.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on emergency management and continuity of government.

This draft would permit each house of the Legislature, pursuant to its rules or joint rules, to issue a notice that the house and its committees are prevented from physically meeting at the seat of government due to an emergency. If a notice is issued, the house and any committee of the house may conduct a virtual meeting and transact business using any means of communication by which all of the following occur: (1) the identity of each participating member is verified, and the actions of each participating member are authenticated; (2) all participating members are able to simultaneously hear or read the comments of members recognized to speak; (3) all communication by a member who is recognized to speak is immediately transmitted to the other participating members; and (4) the public has the opportunity to monitor the proceedings by viewing an Internet website, within technological limits. In order for a joint committee of the legislature to hold a virtual meeting in the manner described above, each house would have to issue a notice of emergency. Exceptions to public notice of legislative proceedings or meetings and to public access via the Internet are provided where the public welfare requires secrecy, as provided in Article IV, Section 10 of the Wisconsin Constitution.

Under the draft, a virtual meeting held in accordance with these requirements would be considered to have occurred at the seat of government and all actions taken at a virtual meeting would have the same legal effect as if the members were physically present at the seat of government. For purposes of determining the presence of a quorum to conduct business, any member participating in a virtual meeting would be considered present in the same manner as if physically present at the seat of government.

The draft provides that in presiding over a virtual meeting of a house of the legislature, the presiding officer must interpret and apply all rules of

proceeding of that house, which presume the physical presence of members in the house's chambers at the seat of government, in a manner so as to accomplish the same purposes for which the rules were adopted. Finally, the draft states that the language authorizing virtual meetings does not limit the authority of either house to use teleconferencing for purposes of holding a committee meeting at the seat of government.

1 **SECTION 1.** 13.42 of the statutes is created to read:

2 **13.42 Virtual meetings of the legislature and legislative committees at seat of**
3 **government.** (1) Either house of the legislature, pursuant to its rules or joint rules, may issue
4 a notice that the house and its committees are prevented from physically meeting at the seat
5 of government due to an emergency. If a house issues such a notice, that house and any
6 committee of that house may conduct a virtual meeting and transact business through the use
7 of any means of communication by which all of the following occur:

8 (a) The identity of each participating member may be verified, and the actions of each
9 participating member may be authenticated, in a manner satisfactory to the presiding officer
10 or committee chairperson.

11 (b) During the meeting, all participating members may simultaneously hear or read the
12 comments of each member who is recognized by the presiding officer or committee
13 chairperson.

14 (c) All communication during the meeting by a member who is recognized by the
15 presiding officer or committee chairperson is immediately transmitted to each participating
16 member.

17 (d) Except as provided in sub. (6), any member of the public who has access to an
18 Internet connection may monitor the proceedings of the house or committee by viewing a
19 website, within technological limits. The legislature shall attempt to update the website as

1 immediately as is feasible under the circumstances, and, to the extent feasible, provide
2 contemporaneous audio broadcasting of members' comments.

3 (2) In order to hold a virtual meeting of a joint committee in the same manner as
4 provided under sub. (1), each house of the legislature shall issue the required notice of
5 emergency.

6 (3) For purposes of Article IV, section 11 of the Wisconsin Constitution, a virtual
7 meeting held under sub. (1) shall be considered to have occurred at the seat of government and
8 all actions taken during such a meeting shall have the same legal effect as if the members were
9 physically present at the seat of government.

10 (4) For purposes of determining the presence of a quorum, any member participating
11 in proceedings or meetings held under this section shall be considered present in the same
12 manner as if the member were physically present at the seat of government.

13 (5) Except as provided in sub. (6), a virtual meeting held under sub. (1) shall be
14 preceded by the same or substantially equivalent public notice as would be required if the
15 members were physically present at the seat of government.

16 (6) Subsections (1) (d) and (5) do not apply if, pursuant to Article IV section 10 of the
17 Wisconsin Constitution, the public welfare requires secrecy.

18 (7) In presiding over a virtual meeting of a house of the legislature under sub. (1), the
19 presiding officer shall interpret and apply all rules of proceeding of that house, which presume
20 the physical presence of members in the house's chambers at the seat of government, in such
21 a manner as to accomplish the same purposes for which the rules were adopted.

22 (8) This section does not limit the authority of either house of the legislature to use
23 teleconferencing for purposes of holding a committee meeting at the seat of government.

24 (END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

3/10/09

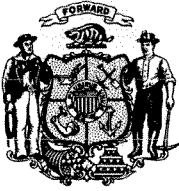
meeting w/ Sen Jansch Rep. Ballweg
and Legislative Council

Put legislative successors, virtual
meetings of the legislature and
temporary place of meeting for
legislature is separate draft

(Remove from 09- LRB-0166
on recodification of ch. 166)

Make Legislative succession effective
upon passage of bill - but just
for emergencies resulting from
enemy action

Double draft to remove enemy
action requirement if
Const Amend to Article IV, § 34
adopted.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2345/P1

RLR&RPN:.....

By Friday Noon Please

Legs
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV
Kief

Gen Cat

1 AN ACT ...; relating to: interim successors for legislators, meetings of the
2 legislature and legislative committees, and temporary seat of government for
3 the legislature.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 13.41 of the statutes is created to read:

5 **13.41 Interim successors for legislators.** (1) A legislator, as soon as
6 practicable after the legislature convenes under s. 13.02 (1), shall file with the chief
7 clerk for the legislator's house a list of not fewer than 3 nor more than 7 interim
8 successors for the legislator and shall specify their order of succession. The legislator
9 may update the list as often as the legislator wishes.

SECTION 1

1 (2) A list created under sub. (1) is not subject to inspection or copying under
2 s. 19.35 (1). ✓

3 (3) If, during an emergency resulting from enemy action, there are more than
4 9 vacancies in the senate at the same time, as determined under s. 17.03, the
5 presiding officer, or his or her designee, shall appoint interim successors to fill the
6 vacancies from the list under sub. (1) for the legislators whose seats are vacant, in
7 the order of succession specified. The presiding officer may not appoint an interim
8 successor who is unwilling, unable, or ineligible under the constitution and statutes
9 to serve as a legislator.

10 (4) If, during an emergency resulting from enemy action, there are more than
11 25 vacancies in the assembly at the same time, as determined under s. 17.03, the
12 presiding officer, or his or her designee, shall appoint interim successors to fill the
13 vacancies from the list under sub. (1) for the legislators whose seats are vacant, in
14 the order of succession specified. The presiding officer may not appoint an interim
15 successor who is unwilling, unable, or ineligible under the constitution and statutes
16 to serve as a legislator.

17 (5) Interim successors appointed under sub. (3) or (4) shall take the oath of
18 office, but may not be required, as a prerequisite to the exercise of the powers or
19 discharge of the duties of a legislator, to comply with any other provision of law
20 relative to taking office.

21 (6) The chief clerk of each house, or if he or she is unavailable, his or her deputy,
22 shall notify the secretary of state of all vacancies that are filled by interim successors
23 under this section.

24 (7) An interim successor taking office under this section shall exercise the
25 powers and discharge the duties of the office until the vacancy is filled under s. 17.19

1 or the emergency resulting from enemy action has ended. All votes taken by an
2 interim successor shall be as valid as if taken by an elected legislator.

3 **SECTION 2.** 13.41 (3), (4) and (7) of the statutes, as created by 2009 Wisconsin
4 Act (this act), are amended to read:

5 13.41 (3) ~~If, during an emergency resulting from enemy action,~~ there are more
6 than 9 vacancies in the senate at the same time, as determined under s. 17.03, the
7 presiding officer, or his or her designee, shall appoint interim successors to fill the
8 vacancies from the list under sub. (1) for the legislators whose seats are vacant, in
9 the order of succession specified. The presiding officer may not appoint an interim
10 successor who is unwilling, unable, or ineligible under the constitution and statutes
11 to serve as a legislator.

12 (4) ~~If, during an emergency resulting from enemy action,~~ there are more than
13 25 vacancies in the assembly at the same time, as determined under s. 17.03, the
14 presiding officer, or his or her designee, shall appoint interim successors to fill the
15 vacancies from the list under sub. (1) for the legislators whose seats are vacant, in
16 the order of succession specified. The presiding officer may not appoint an interim
17 successor who is unwilling, unable, or ineligible under the constitution and statutes
18 to serve as a legislator.

19 (7) An interim successor taking office under this section shall exercise the
20 powers and discharge the duties of the office until the vacancy is filled under s. 17.19
21 ~~or the emergency resulting from enemy action has ended.~~ All votes taken by an
22 interim successor shall be as valid as if taken by an elected legislator.

23 **SECTION 3.** 13.42 of the statutes is created to read:

24 **13.42 Virtual meetings of the legislature and legislative committees.**

25 (1) In this section:

1 (a) "Disaster" means a severe or prolonged, natural or human-caused,
2 occurrence that threatens or negatively impacts life, health, property,
3 infrastructure, the environment, the security of this state or a portion of this state,
4 or critical systems, including computer, telecommunications, or agricultural
5 systems.

6 (b) "Member" means a member of the legislature.

7 (2) Either house of the legislature, under its rules or joint rules, may issue a
8 notice that the house and its committees are prevented from physically meeting at
9 the seat of government due to an emergency resulting from a disaster or the
10 imminent threat of a disaster.

11 (3) If a house issues a notice under sub. (2), that house and any committee of
12 that house may conduct a meeting and transact business through the use of any
13 means of communication by which all of the following occur:

14 (a) The identity of each participating member may be verified, and the actions
15 of each participating member may be authenticated, in a manner satisfactory to the
16 presiding officer or committee chairperson.

17 (b) During the meeting, all participating members may simultaneously hear
18 or read the comments of each member who is recognized by the presiding officer or
19 committee chairperson.

20 (c) Any document that is used during the meeting by a member and that is
21 accepted by the presiding officer or committee chairperson is immediately
22 transmitted to each participating member.

23 (d) Except as provided in sub. (8), within technological limits, the public may
24 monitor the proceedings of the house or committee.

1 (4) In order to hold a meeting of a joint committee in the manner provided
2 under sub. (3), each house of the legislature shall issue a notice of emergency under
3 sub. (2).

4 (5) For purposes of article IV, section 11, of the Wisconsin Constitution, a
5 meeting held under sub. (3) ^{or (10)} shall be considered to have occurred at the seat of
6 government and all actions taken during the meeting shall have the same legal effect
7 as if the members were physically present at the seat of government.

8 (6) For purposes of determining the presence of a quorum in proceedings or
9 meetings held under this section, any participating member shall be considered
10 present in the same manner ^e as if the member were physically present at the seat of
11 government.

12 (7) Except as provided in sub. (8), a meeting held under sub. (3) ^{or (10)} shall be
13 preceded by the same or substantially equivalent public notice as would be required
14 if the members were physically present at the seat of government.

15 (8) Subsections (3) (d) and (7) do not apply, ^{with respect to a meeting held under} if pursuant to article IV, section 10, ^{sub.}
16 of the Wisconsin Constitution, the public welfare requires secrecy. ⁽³⁾

17 (9) In presiding over a meeting of a house of the legislature described under
18 sub. (3), ^{or (10)} the presiding officer shall interpret and apply all rules of proceeding of that
19 house, which ^{e that} presume the physical presence of members in the house's chambers at
20 the seat of government, in such a manner as to accomplish the same purposes for
21 which the rules were adopted.

22 (10) Notwithstanding the requirement for a notice of emergency under sub. (2),
23 and pursuant to the session schedule under s. 13.02 (3), the legislature may meet for
24 up to one week per session by holding a meeting as described under sub. (3) in order
25 to practice meeting in that manner.

(11) This section does not limit the authority of either house of the legislature to use teleconferencing for purposes of holding a committee meeting at the seat of government.

SECTION 4. 14.38 (10m) of the statutes is created to read:

14.38 (10m) NOTIFICATION OF CONSTITUTIONAL AMENDMENT. If an amendment to the Wisconsin Constitution is approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, within 30 days after the government accountability board records the approval under s. 7.70 (3) (h), notify the legislature that the amendment has been approved.

SECTION 5. 166.05 (1) (title) of the statutes is amended to read:

166.05 (1) (title) DESIGNATION OF EMERGENCY TEMPORARY LOCATION BY THE GOVERNOR.

History: 1979 c. 361 ss. 56, 112, 113; Stats. 1979 s. 166.05; 1995 a. 247.

SECTION 6. 166.05 (1m) of the statutes is created to read:

166.05 (1m) DESIGNATION OF TEMPORARY LOCATION BY THE LEGISLATURE. (a) The legislature, by joint rule, may provide a process for designating ^{ea}an temporary seat of government for the legislature that is different than the location under sub. (1).

(b) Whenever, as the result of a disaster, as defined in s. 13.42 (1) (a), or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the business of the legislature at the state capitol, the legislature may meet at the temporary location designated under par. (a) or sub. (1) until it is no longer, as a result of the disaster or imminent threat of disaster, imprudent, inexpedient, or impossible, to conduct the business of the legislature at the state capitol.

as provided

as provided

1 (c) Pursuant to the session schedule under s. 13.02 (3), the legislature may meet
2 for up to one week per session in a location that is not the state capitol or the
3 temporary location designated under par. (a) or sub. (1) to practice meeting at a
4 temporary location.

as provided

5 (d) Information about the temporary location designated under par. (a) is not
6 subject to inspection or copying under s. 19.35 (1).

7 **SECTION 7.** 166.05 (2) of the statutes is amended to read: *

8 166.05 (2) EXERCISE OF GOVERNMENTAL AUTHORITY. While the seat of government
9 remains at such a temporary location all official acts required by law to be performed
10 at the seat of government by any officer, independent agency, department, or
11 authority of this state, including the convening and meeting of the legislature in
12 regular or special session under sub. (1) or (1m) (b) or (c), shall be as valid and binding
13 when performed at ~~such emergency~~ the temporary location as if performed at the
14 normal location.

History: 1979 c. 361 ss. 56, 112, 113; Stats. 1979 s. 166.05; 1995 a. 247.

15 **SECTION 8. Effective dates.** This act takes effect on the day after publication,
16 except as follows:

✓ ✓

17 (1) INTERIM SUCCESSORS FOR LEGISLATORS. The amendment of section 13.41 (3),
18 (4), and (7) of the statutes takes effect on the day after the secretary of state notifies
19 the legislature that an amendment to the Wisconsin Constitution has been approved
20 that requires the legislature to provide for temporary succession to the powers and
21 duties of public offices for the period of an emergency resulting from a cause other
22 than an enemy action.

23 (END)

Nelson, Robert P.

From: Sweet, Richard
Sent: Monday, April 06, 2009 4:56 PM
To: Ryan, Robin; Nelson, Robert P.
Cc: Shannon, Pam
Subject: FW: Emailing: egov_pref.doc

Attachments: egov_pref.doc



egov_pref.doc (30
KB)

Robin/Bob,

I've attached the final Joint Leg. Council prefatory note for LRB-2345/P1. I think if you add it to the draft, it can become a /1. Thanks.

Dick

Ryan, Robin

From: Sweet, Richard
Sent: Thursday, April 23, 2009 10:09 AM
To: Ryan, Robin
Cc: Nelson, Robert P.; Shannon, Pam
Subject: COOP

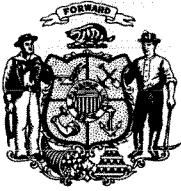
How about adding this paragraph at the end of the pref. note section on interim successors:

Under the Wisconsin constitution (article IV, section 34), the legislature is required to provide for continuity of governmental operations in periods of emergency resulting from enemy action in the form of an attack. The bill uses this language in describing the vacancies that occur in the legislature. However, the bill also strikes this language if a constitutional amendment is ratified that requires the legislature to ensure continuity in other types of emergencies. Such an amendment has been recommended by the special committee.

Feel free to tinker with the language.

Dick Sweet

Senior Staff Attorney
Wisconsin Legislative Council
(608)266-2982
richard.sweet@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2345/P1

RLR&RPN:cjs:md

In 4/21/09

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

This bill is explained in the ^(CS)NOTES provided by the Joint Legislative Council in the bill.

Rege Cat

- 1 AN ACT to amend 13.41 (3), (4) and (7), 166.05 (1) (title) and 166.05 (2); and to
2 create 13.41, 13.42, 14.38 (10m) and 166.05 (1m) of the statutes; relating to:
3 interim successors for legislators, meetings of the legislature and legislative
4 committees, and temporary seat of government for the legislature.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 5 SECTION 1. 13.41 of the statutes is created to read:
6 13.41 Interim successors for legislators. (1) A legislator, as soon as
7 practicable after the legislature convenes under s. 13.02 (1), shall file with the chief
8 clerk for the legislator's house a list of not fewer than 3 nor more than 7 interim
9 successors for the legislator and shall specify their order of succession. The legislator
10 may update the list as often as the legislator wishes.

1 (2) A list created under sub. (1) is not subject to inspection or copying under
2 s. 19.35 (1).

3 (3) If, during an emergency resulting from enemy action, there are more than
4 9 vacancies in the senate at the same time, as determined under s. 17.03, the
5 presiding officer, or his or her designee, shall appoint interim successors to fill the
6 vacancies from the list under sub. (1) for the legislators whose seats are vacant, in
7 the order of succession specified. The presiding officer may not appoint an interim
8 successor who is unwilling, unable, or ineligible under the constitution and statutes
9 to serve as a legislator.

10 (4) If, during an emergency resulting from enemy action, there are more than
11 25 vacancies in the assembly at the same time, as determined under s. 17.03, the
12 presiding officer, or his or her designee, shall appoint interim successors to fill the
13 vacancies from the list under sub. (1) for the legislators whose seats are vacant, in
14 the order of succession specified. The presiding officer may not appoint an interim
15 successor who is unwilling, unable, or ineligible under the constitution and statutes
16 to serve as a legislator.

17 (5) Interim successors appointed under sub. (3) or (4) shall take the oath of
18 office, but may not be required, as a prerequisite to the exercise of the powers or
19 discharge of the duties of a legislator, to comply with any other provision of law
20 relative to taking office.

21 (6) The chief clerk of each house, or if he or she is unavailable, his or her deputy,
22 shall notify the secretary of state of all vacancies that are filled by interim successors
23 under this section.

24 (7) An interim successor taking office under this section shall exercise the
25 powers and discharge the duties of the office until the vacancy is filled under s. 17.19

1 or the emergency resulting from enemy action has ended. All votes taken by an
2 interim successor shall be as valid as if taken by an elected legislator.

3 **SECTION 2.** 13.41 (3), (4) and (7) of the statutes, as created by 2009 Wisconsin
4 Act (this act), are amended to read:

5 13.41 (3) ~~If, during an emergency resulting from enemy action,~~ there are more
6 than 9 vacancies in the senate at the same time, as determined under s. 17.03, the
7 presiding officer, or his or her designee, shall appoint interim successors to fill the
8 vacancies from the list under sub. (1) for the legislators whose seats are vacant, in
9 the order of succession specified. The presiding officer may not appoint an interim
10 successor who is unwilling, unable, or ineligible under the constitution and statutes
11 to serve as a legislator.

12 (4) ~~If, during an emergency resulting from enemy action,~~ there are more than
13 25 vacancies in the assembly at the same time, as determined under s. 17.03, the
14 presiding officer, or his or her designee, shall appoint interim successors to fill the
15 vacancies from the list under sub. (1) for the legislators whose seats are vacant, in
16 the order of succession specified. The presiding officer may not appoint an interim
17 successor who is unwilling, unable, or ineligible under the constitution and statutes
18 to serve as a legislator.

19 (7) An interim successor taking office under this section shall exercise the
20 powers and discharge the duties of the office until the vacancy is filled under s. 17.19
21 ~~or the emergency resulting from enemy action has ended.~~ All votes taken by an
22 interim successor shall be as valid as if taken by an elected legislator.

23 **SECTION 3.** 13.42 of the statutes is created to read:

24 **13.42 Virtual meetings of the legislature and legislative committees.**

25 (1) In this section:

1 (a) "Disaster" means a severe or prolonged, natural or human-caused,
2 occurrence that threatens or negatively impacts life, health, property,
3 infrastructure, the environment, the security of this state or a portion of this state,
4 or critical systems, including computer, telecommunications, or agricultural
5 systems.

6 (b) "Member" means a member of the legislature.

7 (2) Either house of the legislature, under its rules or joint rules, may issue a
8 notice that the house and its committees are prevented from physically meeting at
9 the seat of government due to an emergency resulting from a disaster or the
10 imminent threat of a disaster.

11 (3) If a house issues a notice under sub. (2), that house and any committee of
12 that house may conduct a meeting and transact business through the use of any
13 means of communication by which all of the following occur:

14 (a) The identity of each participating member may be verified, and the actions
15 of each participating member may be authenticated, in a manner satisfactory to the
16 presiding officer or committee chairperson.

17 (b) During the meeting, all participating members may simultaneously hear
18 or read the comments of each member who is recognized by the presiding officer or
19 committee chairperson.

20 (c) Any document that is used during the meeting by a member and that is
21 accepted by the presiding officer or committee chairperson is immediately
22 transmitted to each participating member.

23 (d) Except as provided in sub. (8), within technological limits, the public may
24 monitor the proceedings of the house or committee.

1 **(4)** In order to hold a meeting of a joint committee in the manner provided
2 under sub. (3), each house of the legislature shall issue a notice of emergency under
3 sub. (2).

4 **(5)** For purposes of article IV, section 11, of the Wisconsin Constitution, a
5 meeting held under sub. (3) or (10) shall be considered to have occurred at the seat
6 of government and all actions taken during the meeting shall have the same legal
7 effect as if the members were physically present at the seat of government.

8 **(6)** For purposes of determining the presence of a quorum in proceedings or
9 meetings held under this section, any participating member shall be considered
10 present as if the member were physically present at the seat of government.

11 **(7)** Except as provided in sub. (8), a meeting held under sub. (3) or (10) shall
12 be preceded by the same or substantially equivalent public notice as would be
13 required if the members were physically present at the seat of government.

14 **(8)** Subsections (3) (d) and (7) do not apply with respect to a meeting held under
15 sub. (3), if pursuant to article IV, section 10, of the Wisconsin Constitution, the public
16 welfare requires secrecy.

17 **(9)** In presiding over a meeting of a house of the legislature described under
18 sub. (3) or (10), the presiding officer shall interpret and apply all rules of proceeding
19 of that house that presume the physical presence of members in the house's
20 chambers at the seat of government, in such a manner as to accomplish the same
21 purposes for which the rules were adopted.

22 **(10)** Notwithstanding the requirement for a notice of emergency under sub. (2),
23 and pursuant to the session schedule under s. 13.02 (3), the legislature may meet for
24 up to one week per session by holding a meeting as described under sub. (3) in order
25 to practice meeting in that manner.

(11) This section does not limit the authority of either house of the legislature to use teleconferencing for purposes of holding a committee meeting at the seat of government.

SECTION 4. 14.38 (10m) of the statutes is created to read:

14.38 (10m) NOTIFICATION OF CONSTITUTIONAL AMENDMENT. If an amendment to the Wisconsin Constitution is approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, within 30 days after the government accountability board records the approval under s. 7.70 (3) (h), notify the legislature that the amendment has been approved.

SECTION 5. 166.05 (1) (title) of the statutes is amended to read:

166.05 (1) (title) DESIGNATION OF EMERGENCY TEMPORARY LOCATION BY THE GOVERNOR.

SECTION 6. 166.05 (1m) of the statutes is created to read:

166.05 (1m) DESIGNATION OF TEMPORARY LOCATION BY THE LEGISLATURE. (a) The legislature, by joint rule, may provide a process for designating a temporary seat of government for the legislature that is different than the location under sub. (1).

(b) Whenever, as the result of a disaster, as defined in s. 13.42 (1) (a), or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the business of the legislature at the state capitol, the legislature may meet at the temporary location designated as provided under par. (a) or sub. (1) until it is no longer, as a result of the disaster or imminent threat of disaster, imprudent, inexpedient, or impossible, to conduct the business of the legislature at the state

capitol.

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1 (c) Pursuant to the session schedule under s. 13.02 (3), the legislature may meet
2 for up to one week per session in a location that is not the state capitol or the
3 temporary location designated as provided under par. (a) or sub. (1) to practice
4 meeting at a temporary location.

5 (d) Information about the temporary location designated as provided under
6 par. (a) is not subject to inspection or copying under s. 19.35 (1).

7 **SECTION 7.** 166.05 (2) of the statutes is amended to read:

8 166.05 (2) EXERCISE OF GOVERNMENTAL AUTHORITY. While the seat of government
9 remains at ~~such~~ a temporary location all official acts required by law to be performed
10 at the seat of government by any officer, independent agency, department, or
11 authority of this state, including the convening and meeting of the legislature in
12 regular or special session under sub. (1) or (1m) (b) or (c), shall be as valid and binding
13 when performed at ~~such emergency~~ the temporary location as if performed at the
14 normal location.

15 **SECTION 8. Effective dates.** This act takes effect on the day after publication,
16 except as follows:

17 (1) INTERIM SUCCESSORS FOR LEGISLATORS. The amendment of section 13.41 (3),
18 (4), and (7) of the statutes takes effect on the day after the secretary of state notifies
19 the legislature that an amendment to the Wisconsin Constitution has been approved
20 that requires the legislature to provide for temporary succession to the powers and
21 duties of public offices for the period of an emergency resulting from a cause other
22 than an enemy action.

23 (END)

INS Note

(CS)

JOINT LEGISLATIVE COUNCIL PREFATORY NOTES

This bill was prepared for the joint legislative council's special committee on emergency management and continuity of government. It includes provisions on: (1) emergency interim successors for legislators; (2) virtual meetings of the legislature; and (3) emergency temporary locations for the legislature.

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Emergency Interim Successors

Current law provides a mechanism for appointment of emergency interim successors for the governor and a variety of state and local officers. However, current law does not provide a mechanism for appointment of emergency interim successors for legislators.

The bill provides that a legislator, as soon as practicable after the legislature convenes every 2 years, must file with the chief clerk for the legislator's house a list of not less than 3 nor more than 7 emergency interim successors. The list is not subject to inspection or copying under the open records law. If there are more than 9 vacancies in the Senate, or more than 25 vacancies in the Assembly, interim successors named in the list are to be appointed by the presiding officer or his or her designee in the house in which the threshold has been met to fill the vacancies. An interim emergency successor is required to exercise the powers and discharge the duties of the office until the vacancy is filled through an election. All votes taken by emergency interim successors are as valid as if taken by a legislator.

INSA →

or the emergency has ended

Virtual Meetings

The bill would permit each house of the Legislature, pursuant to its rules or joint rules, to issue a notice that the house and its committees are prevented from physically meeting at the seat of government due to a disaster. If a notice is issued, the house and any committee of the house may conduct a virtual meeting and transact business using any means of communication by which all of the following occur: (1) the identity of each participating member is verified and the actions of each participating member are authenticated; (2) all participating members are able to simultaneously hear or read the comments of members recognized to speak; (3) any document that is used by a member and that is accepted by the presiding officer or chairperson is immediately transmitted to the other participating members; and (4) the public has the opportunity to monitor the proceedings, within technological limits. In order for a joint committee of the legislature to hold a virtual meeting in the manner described above, each house would have to issue a notice of emergency. Exceptions to public notice of legislative proceedings or meetings and to public access are provided where the public welfare requires secrecy, as provided in Article IV, Section 10 of the Wisconsin Constitution.

Under the bill, a virtual meeting held in accordance with these requirements would be considered to have occurred at the seat of government and all actions taken at a virtual

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meeting would have the same legal effect as if the members were physically present at the seat of government. For purposes of determining the presence of a quorum to conduct business, any member participating in a virtual meeting would be considered present in the same manner as if physically present at the seat of government. ✓

The bill provides that in presiding over a virtual meeting of a house of the legislature, the presiding officer must interpret and apply all rules of proceeding of that house, which presume the physical presence of members in the house's chambers at the seat of government, in a manner so as to accomplish the same purposes for which the rules were adopted. Finally, the bill states that the language authorizing virtual meetings does not limit the authority of either house to use teleconferencing for purposes of holding a committee meeting at the seat of government. ✓

Emergency Temporary Locations

Under current law, whenever during a state of emergency it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the state capitol, the governor is required to designate an emergency temporary location for the seat of government and to take such action and issue such orders as are necessary for an orderly transition of the affairs of state government to that location. While the seat of government remains at a temporary location, all official acts required by law to be performed at the seat of government are as valid and binding when performed at the temporary location as if performed at the normal location. ✓

This bill allows the legislature, by joint rule, to provide a process for designating an emergency temporary seat of government for the legislature that is different than the location designated by the governor. Under the bill, whenever, as the result of a disaster or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the business of the legislature at the state capitol, the legislature may meet either at the location designated by the governor or the location designated by the legislature itself. Information about this location is not subject to inspection or copying under the open records law.

capitol

< end of INS note >

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2345/ins
RLR:.....

INSA

~~Insert for prefatory notes:~~

Article IV, section 34, of

Under the Wisconsin constitution (article IV, section 34), the legislature is required to provide for continuity of governmental operations in periods of emergency resulting from enemy action in the form of an attack. The special committee has recommended a constitutional amendment that requires the legislature to ensure continuity in other types of emergencies. The bill provides that if such a constitutional amendment is ratified, the presiding officer shall appoint interim successor whenever the requisite number of vacancies exists.

5

Duerst, Christina

From: Shannon, Pam
Sent: Thursday, May 21, 2009 9:35 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-2345/1 Topic: Successors for legislators and meetings of the legislature

Please Jacket LRB 09-2345/1 for the SENATE.